

## REMARKS

### A. Request for Reconsideration

Applicants have carefully considered the matters raised by the Examiner in the outstanding Office Action but remain of the position that patentable subject matter is present. Applicants respectfully request reconsideration of the Examiner's position based on the amendments to the claims and the following remarks.

### B. Claim Status and Amendments

Claims 1-13 are presented for further prosecution.

Claim 1 has been amended to recite the evaluation conditions for  $S_A$  and  $S_B$ . Support for this amendment can be found at page 95, lines 1-9.

### C. The Office Action

Claims 1-13 had been rejected as being anticipated by Fukui (US 2002/0102502). Claims 1-4 had been rejected for obviousness-type double patenting as being unpatentable over claims 1, 7 and 16 of Kudo (US 6,808,872).

In the previous Response dated February 18, 2005, Applicants had submitted the February 2005 Declaration of Mr. Kashiwagi to demonstrate that the material of Fukui does not inherently teach the claimed  $S_B/S_A$  ratio. In section 5 of the

outstanding Office Action, the Examiner had criticized the Declaration since the evaluation conditions for  $S_B$  and  $S_A$  explained in paragraph 6 of the Declaration and pages 94-95 of the Application differ from the evaluation conditions for  $S_B$  and  $S_A$  in claim 1.

1. Claim 1 has been amended to recite the evaluation conditions for  $S_B$  and  $S_A$

Applicant has amended the evaluation conditions for  $S_B$  and  $S_A$  in claim 1 to be in accordance with page 95 of the Application. Thus, claim 1 now recites that  $S_A$  represents a sensitivity obtained when exposed to white light (4874K) for 30 sec. through an optical wedge, and then developed at 110 °C for 15 sec., and  $S_B$  represents a sensitivity obtained when subjected to a heat treatment at 110 °C for 15 sec., and exposed to white light (4874K) for 30 sec. through an optical wedge, and then developed at 110 °C for 15 sec.

It is submitted that the evaluation conditions for  $S_B$  and  $S_A$  are the same in claim 1, page 95 of the Application and the Declaration. Applicant therefore respectfully requests full consideration of the February 2005 Declaration.

2. The February 2005 Declaration demonstrates that Fukui does not inherently teach the claimed  $S_B/S_A$  ratio

Mr. Kashiwagi has performed tests in order to demonstrate that the material of Fukui does not inherently teach the claimed  $S_B/S_A$  ratio. The results of these tests are reported in the February 2005 Declaration.

Mr. Kashiwagi prepared Sample No. 10 in Table 3 at page 38 of Fukui in accordance with the preparation method of Fukui. Sample No. 10 was chosen as a comparative sample since it contains compound 11-3 (equal to compound 2-3 on page 6 of Fukui). Sample No. 10 of Fukui is also the same as compound 1-1 at page 8 of the Application.

Next, Mr. Kashiwagi evaluated Sample No. 10 of Fukui to determine the sensitivity ratio  $S_B/S_A$ . The evaluation was performed as taught at page 94, line 22 to page 95, line 9 of the Application. This evaluation method is now recited in amended claim 1. Specifically, as recited in claim 1, Sample No. 10 was subjected to heat treatment at 110 °C for 15 sec., then exposed to white light (4874K) for 30 sec. through an optical wedge, and then developed at 110 °C for 15 sec to measure  $S_B$ , while the same process was repeated without the heat treatment to measure  $S_A$ . The sensitivity ratio  $S_B/S_A$  for Sample No. 10 is reported in Table 4 of the Declaration.

As shown in Table 4, Sample No. 10 of Fukui had a sensitivity ratio outside the claimed range. It is therefore respectfully submitted that Mr. Kashiwagi has demonstrated that Fukui does not inherently meet the limitations of claim 1.

D. The Double Patenting Rejection

Applicants will consider filing a terminal disclaimer to overcome the double patenting rejection upon an indication of allowable subject matter.

E. Conclusion

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance and such action is respectfully requested. Should any extensions of time or fees be necessary in order to maintain this Application in pending condition, appropriate requests are hereby made and authorization is given to debit Account # 02-2275.

Respectfully submitted,  
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